

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SAN LUIS COASTAL UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012080851

ORDER DENYING REQUEST FOR  
CONTINUANCE

On September 7, 2012, Parent, on behalf of Student, filed a request to continue the dates in this matter. Attached to the request for continuance was a letter from the San Luis Coastal Unified School District's (District) counsel stating that while District was agreeable to a short continuance, it was unwilling to agree to the length of a continuance proposed by Student. Because the parties do not agree on the length of the continuance, District's counsel's letter is treated as an opposition.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings (OAH) considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All hearing dates and timelines shall proceed as calendared. There has been no prior continuance and OAH is inclined to grant a continuance. OAH will typically grant an initial continuance of a matter without the parties having to establish good cause in cases where there is a joint request for continuance. Because this is a contested request for continuance, the moving party, Student, has to provide some grounds that can establish good cause for the continuance. Here, Student has provided no information as to why Parents cannot proceed to hearing as scheduled and why Parents needs the matter to be calendared on the dates requested by Student. **Student may resubmit her request for a continuance and provide information as to why Student needs the matter continued to the dates proposed by Student.**

Additionally, there is no proof of service from Student establishing that District was served with the motion. **Parent is order to serve all future documents that she files with OAH upon District's legal counsel, and to attach a proof of service or a statement under oath indicating that Parent served a copy of the document to District's legal counsel and the method of service.** Student's motion for a continuance is denied without prejudice.

IT IS SO ORDERED.

Dated: September 12, 2012

/s/

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BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings